

IN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED
CENTRAL FAX CENTER
OCT 03 2006

In re application of: **Lifestream Technologies Inc.**)
Serial No.: **09/892,184**)
Inventor: **Maus, Christopher**) Group Art No. **3626**
Filed: **June 26, 2001**) Examiner: Carolyn M. Bleck
For: **MOBILE DATA MANAGEMENT SYSTEM**)

REMARKS ACCOMPANYING RCE AND AMENDMENT

Commissioner for Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

October 3, 2006

Customer Number **35,725**

Sir:

Please consider the concurrently filed Amendment and the following Remarks in connection in response to the Final Official Action mailed July 3, 2003. Applicant has also filed an Request for Continuing Examination (RCE) to further prosecution of the present application. The RCE is filed within three months of the Final Official Action and no additional claims have been added. A credit card authorization for the \$395 RCE filing fee is enclosed and no additional charge is believed to be due.. Please charge any additional fee due or credit any refund to Deposit Account **50-2591**.

I hereby certify that this correspondence is being filed with the
United States Patent and Trademark Office, Patents by First
Class Mail or facsimile directed to the Central Fax No. (571)
273-8300 on the date shown below.


Michael J. Mehrman, Reg. No. 40,086

Date

10-3-2006

OCT 03 2006

Serial No.: 09/892,184
Attorney Docket No.: 4L01.1-012
PATENT**RECORD OF TELEPHONE INTERVIEW**

The undersigned on behalf of Applicant and Examiner Bleck conducted a telephone interview regarding the Final Official Action on September 29, 2006. The parties discussed the claims generally and Holtzman, which is the principal reference cited in the Final Official Action. Applicant pointed out that the bottom right-column paragraph on page 19 of Holtzman cited in the Official Action describes a process in which a field medical associate (FMA) records emergency medical treatment and related data gathered at the scene of emergency treatment on a smartcard using a wearable hardware platform. The FMA then places the smartcard with the patient to avoid wireless transmission of the patient's medical data gathered at the scene.

Applicant's claims, on the other hand, are directed to the inclusion of personal identification information and medical insurance information on a personal data device, such as a smartcard, provided to the patient. When the patient requires medical treatment, the patient's personal identification information and medical insurance information is read from the personal data device and transmitted to a medical treatment facility in advance of the arrival of the patient at the facility to facilitate admission of the patient for treatment at the facility. The parties agreed that none of the cited references teach or suggest this type of "pre-admission" system in which personal identification information and medical insurance information are read from a personal data device and transmitted to a medical treatment facility in advance of the arrival of the patient at the medical treatment facility. The parties briefly discussed potential claim language to more clearly distinguish the claimed invention over Holtzman. However, Examiner Bleck expressed the need to update the search and therefore suggested that Applicant file a Request for Continued Examination along with the proposed claim amendments and associated Remarks. The

RECEIVED
CENTRAL FAX CENTER

OCT 03 2006

Serial No.:09/892,184
Attorney Docket No.:4L01.1-012
PATENT**REMARKS**

Claims 21-40 have been examined with none having been allowed. To quote the MPEP, "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." MPEP § 2143.03. See also, In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

Applicant has amended the independent claims to more clearly state that the personal data device, such as a smartcard, stores the patient's personal identification information and medical insurance information and, when the patient requires medical treatment, the personal identification and medical insurance information are read from the personal data device and transmitted to a medical treatment facility in advance of the arrival of the patient at the facility to facilitate admission of the patient for treatment at the facility. None of the cited references teach or suggest this type of "pre-admission" system in which the patient's personal identification information and medical insurance information are read from a personal data device and transmitted to the medical treatment facility in advance of the arrival of the patient at the medical treatment facility to facilitate admission of the patient for treatment at the facility.

In particular, the bottom right-column paragraph on page 19 of Holtzman

RECEIVED
CENTRAL FAX CENTER

OCT 03 2006

Serial No.:09/892,184
Attorney Docket No.:4L01.1-012
PATENT

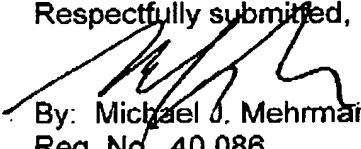
medical treatment to a patient records treatment and other data gathered at the scene on a smartcard using a wearable hardware platform. The FMA then places the smartcard with the patient to avoid wireless transmission of the patient's medical data gathered at the scene. Holtzman does not teach or suggest storing the patient's personal identification and medical insurance information a smartcard, reading this data from the smartcard when the patient requires medical treatment, or the transmission of this information to the medical treatment facility in advance of the arrival of the patient to facilitate admission of the patient for treatment at the facility. In addition, none of the references of record teach or suggest these elements of the claimed invention. Therefore, Holtzman alone or in combination with the other references of record cannot form the basis of a *prima facie* case of obviousness because each and every element of the claimed invention is not shown or suggested in at least one of the references.

MPEP § 2143.03.

CONCLUSION

It is believed that the claims are now in condition for allowance. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Mike Mehrman at (404) 497-7400.

Respectfully submitted,


By: Michael J. Mehrman
Reg. No. 40,086

Mehrman Law Office, P.C.
5605 Glenridge Drive, Suite 795
Atlanta, GA 30342
telephone: 404 497 7400
facsimile: 404 497 7405
mike@mehrmanlaw.com